

Melissa A. Higbee, Esq., SBN 030812012
HIGBEE & ASSOCIATES
1504 Brookhollow Dr., Ste. 112
Santa Ana, CA 92705-5418
(714) 617-8350
(714) 597-6559 Facsimile
mclark@higbeeassociates.com

Attorney for Plaintiff,
CHRISTOPHER SADOWSKI

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

CHRISTOPHER SADOWSKI,
Plaintiff,
v.
AMERICAN SECURITY TODAY,
LLC; and DOES 1 through 10 inclusive,
Defendants.

Case No.

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**
DEMAND FOR JURY TRIAL

Plaintiff, Christopher Sadowski alleges as follows:

LOCAL CIVIL RULE 10.1 STATEMENT

1. The mailing addresses of the parties to this action are:

Christopher Sadowski
c/o Higbee & Associates
1504 Brookhollow Drive Suite 112
Santa Ana, CA 92705

American Security Today, LLC
Attn: Tammy Waitt
2801 Hayes St.
Belmar, NJ 07719

INTRODUCTION

2. Plaintiff Christopher Sadowski (hereinafter “Sadowski” or “Plaintiff”), brings this action against American Security Today, LLC (“Defendant”), with regard to the unlawful use of copyrighted images owned by Plaintiff.

3. For the purposes of this Complaint for Damages, unless otherwise indicated, “Defendant” includes all agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogates, representatives and insurers of Defendant named in this caption.

4. Plaintiff is unaware of the true names and capacities of the Defendants sued herein as DOES 1 through 10, inclusive, and for that reason, sues such Defendants under such fictitious names. Plaintiff is informed and believes and on that basis alleges that such fictitiously named Defendants are responsible in some manner for the occurrences herein alleged, and that Plaintiff’s damages as herein alleged were proximately caused by the conduct of said Defendants. Plaintiff will seek to amend the complaint when the names and capacities of such fictitiously named Defendants are ascertained. As alleged herein, “Defendants” shall mean all named Defendants and all fictitiously named Defendants.

PARTIES

5. Plaintiff Christopher Sadowski resides in the City of Hawthorne in the State of New Jersey and is a professional photographer by trade.

6. Plaintiff is informed and believes, and thereon alleges, that Defendant American Security Today, LLC is a New Jersey corporation with a principal place of business at 2801 Hayes St., Belmar, NJ 07719.

7. Plaintiff is informed and believes Defendant owns the website, <https://americansecuritytoday.com/> (the “Website”). Plaintiff is informed and believes and thereon alleges that Defendant posts content to its website in order to attract user traffic and drive advertising revenue.

JURISDICTION AND VENUE

8. This is a civil action seeking damages and injunctive relief for copyright infringement under the Copyright Act of the United States, 17 U.S.C. § 101 *et seq.*, whereby the Defendant violated Plaintiff’s exclusive rights as copyright owner pursuant to 17 U.S.C. §§ 106 and 106A.

9. This Court has subject matter jurisdiction over Plaintiff’s claims for copyright infringement pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

10. This Court has personal jurisdiction over Defendant because Defendant conducts business within the State of New Jersey, Defendant’s acts of infringement complained of herein occurred in the State of New Jersey, and

Defendant caused injury to Plaintiff within the State of New Jersey.

11. Venue is proper pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to Plaintiff's claim occurred in this judicial district. Alternatively, venue is also proper pursuant to 28 U.S.C. § 1400(b) because the Defendant has a regular and established place of business in this judicial district.

FACTUAL ALLEGATIONS

12. Plaintiff Christopher Sadowski is a professional photographer by trade. Sadowski has licensed or sold his photographs to dozens of major media outlets such as The New York Post, The Daily Mail, Boston Globe, Boston Herald, Los Angeles Times, Toronto Sun, Newsweek Magazine, People Magazine, the Associated Press, USA Today, The Wall Street Journal, Fox News, NBC News, MSNBC, Inside Edition, and TMZ.

13. Sadowski is the sole owner and author of an original image of an accident scene involving a stolen ambulance (the "Image"). A true and correct copy of Sadowski's Image A is attached hereto as Exhibit A.

14. Sadowski registered the Image with the United States Copyright Office on March 31, 2017 under registration number VA 2-040-938.

15. The Image was first published in an article by the New York Post (the Post) on March 16, 2017 titled *EMT run over, killed by man driving stolen*

ambulance (“Post Article”), with credit given to Sadowski just underneath the photograph. A true and correct copy of Post Article is attached hereto as Exhibit B.

16. On or about April 9, 2017, Sadowski discovered that Defendant used the Image in an article posted to the Website titled *NY EMT Run Over, Killed by Man Driving Stolen Ambulance* (“Infringing Article”). A true and correct copy of the Infringing Article is attached hereto as Exhibit C.

17. Sadowski never authorized Defendant to use any of the Images in any manner.

18. On information and belief, Defendant knew that it did not have permission to use the Images on its Website and willfully infringed Sadowski’s Images.

FIRST CAUSE OF ACTION
COPYRIGHT INFRINGEMENT
Title 17 of the United States Code

19. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

20. Plaintiff did not consent to, authorize, permit, or allow in any manner the said use of Plaintiff’s unique and original Images.

21. Plaintiff is informed and believes and thereon alleges that the Defendant willfully infringed upon Plaintiff’s copyrighted Images in violation of

Title 17 of the U.S. Code, in that it used, published, communicated, benefited through, posted, publicized, and otherwise held out to the public for commercial benefit, the original and unique Images of the Plaintiff without Plaintiff's consent or authority, and acquired monetary gain and market benefit as a result.

22. As a result of Defendant's violations of Title 17 of the U.S. Code, Plaintiff is entitled to any actual damages pursuant to 17 U.S.C. §504(b), or statutory damages in an amount up to \$150,000.00 if willful or up to \$30,000 if unintentional pursuant to 17 U.S.C. § 504(c).

23. As a result of the Defendant's violations of Title 17 of the U.S. Code, the court in its discretion may allow the recovery of full costs as well as reasonable attorney's fees and costs pursuant to 17 U.S.C § 505 from Defendant.

24. Plaintiff is also entitled to injunctive relief to prevent or restrain infringement of his copyright pursuant to 17 U.S.C. § 502.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- For statutory damages against Defendant in an amount up to \$150,000.00 for each infringement pursuant to 17 U.S.C. § 504(c);
- For general and special damages against Defendant according to proof together with interest thereon at the maximum legal rate;
- For costs of litigation and reasonable attorney's fees against Defendant

pursuant to 17 U.S.C. § 505;

- For an injunction preventing Defendant from further infringement of all copyrighted works of the Plaintiff pursuant to 17 U.S.C. § 502; and
- For any other relief the Court deems just and proper.

Dated: September 28, 2018

Respectfully submitted,

/s/ Melissa A. Higbee
Melissa A. Higbee, Esq.
NJ Bar No. 030812012
HIGBEE & ASSOCIATES
1504 Brookhollow Dr., Ste 112
Santa Ana, CA 92705-5418
(714) 617-8350
(714) 597-6559 Facsimile
Attorney for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff, Christopher Sadowski, hereby demands a trial by jury in the above matter.

Dated: September 28, 2018

Respectfully submitted,

/s/ Melissa A. Higbee
Melissa A. Higbee, Esq.
NJ Bar No. 030812012
HIGBEE & ASSOCIATES
1504 Brookhollow Dr., Ste 112
Santa Ana, CA 92705-5418
(714) 617-8350
(714) 597-6559 Facsimile
Attorney for Plaintiff